

REMARKS

For convenience in responding to the Action, the headings used in the Action are used herein.

Election/Restriction

Applicants affirm the provisional election of claims 1-21 for prosecution in this application. This election is made without traverse.

Claim Rejections - 35 U.S.C. §112

Claims 1-21 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite. The Office notes, first, that "V" recited in claim 1 is not defined. This rejection has been overcome by inserting "V" after "the micropore volume" in line 6 of claim 1.

The Office notes, second, that "the phosphoric compound" recited in claim 19 and "the antimony content" recited in claim 21 lack antecedent basis. These rejections have been overcome by changing "the phosphoric compound" in claim 19 to --the phosphorus compound-- and by changing "the antimony content in the polyester fiber is" in line 2 of claim 21 to --the polyester fiber has an antimony content--.

Claim Rejections - 35 U.S.C. §103

Claims 1, 4, 6 and 10-12 are rejected under 35 U.S.C. §103(a) as being unpatentable over JP 08-113827 ("JP '827") in view of Bailey (U.S. Patent No. 4,699,627) ("Bailey") or Antikow et al. (U.S. Patent No. 5,207,959) ("Antikow"). This rejection has been overcome by amending claim 1 to include the limitations of non-rejected claim 2.

Removal of the 35 U.S.C. § 112 and 35 U.S.C. § 103(a) rejections is in order and is respectfully solicited.

The foregoing is believed to be a complete and proper response to the Office Action dated May 5, 2004, and is believed to place this application in condition for allowance. If, however, minor issues remain that can be resolved by means of a telephone interview, the Examiner is respectfully requested to contact the undersigned attorney at the telephone number indicated below.

In the event that this paper is not considered to be timely filed, applicants hereby petition for an appropriate extension of time. The fee for any such extension may be charged to our Deposit Account No. 111833.

PATENT APPLN. NO. 10/030,817
RESPONSE UNDER 37 C.F.R. §1.111

**PATENT
NON-FINAL**

In the event any additional fees are required, please also
charge our Deposit Account No. 111833.

Respectfully submitted,

KUBOVCIK & KUBOVCIK

A handwritten signature in black ink, appearing to read 'Ronald J. Kubovcik', is written over the printed name and registration number.

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